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# THE INTERIM

APRIL 1994

HELENA, MONTANA

VOL. IX NO. 11

## THE INTERIM SPORTS A NEW LOOK

Beginning with this issue, *The Interim* is sporting a new masthead. Thanks go to Ann Patten and Glenn Ruckdashel of the Legislative Council staff for their work in designing this new look.

## LEGISLATOR PER DIEM -- TAX CONSIDERATIONS

THE FOLLOWING IS A REPRINT OF AN ARTICLE THAT APPEARED IN THE FEBRUARY EDITION OF *THE INTERIM*.

This information is intended to assist legislators and their tax preparers in handling legislative per diem payments. Legislators should consult with their income tax preparers for specific requirements relating to individual circumstances.

### GENERAL RULES

All legislator per diem payments made to legislators living more than 50 miles from the capitol building are reimbursements made under an accountable plan, are not taxable income of the legislator, and are not subject to withholding or reporting. The difference between the per diem paid and the amount allowed by federal law for reimbursement is treated

as unreimbursed expenses and, subject to certain limitations, is allowed as a miscellaneous items deduction by the legislator.

Legislator per diem payments made to legislators who do not live in Helena but who live within 50 miles of the capitol building are not substantiated reimbursements and are thus reported as income. Withholding is made against these payments, including the state 0.2% old fund liability tax on payments made after July 1, 1993. All legislative lodging and meal expenses actually incurred by the legislator are unreimbursed expenses and, subject to certain limitations, may be a miscellaneous items deduction by the legislator.

Legislator per diem payments made to legislators who reside in Helena are reported as income and are subject to withholding, including the state 0.2% old fund liability tax on payments made after July 1, 1993. The legislator may not claim meal and lodging expenses incurred in Helena.

## DISCUSSION

### Accountable Plan

All legislator per diem payments made to a legislator whose home is more than 50 miles from the capitol building are employee reimbursements under an accountable plan for the following reasons:

1. IRC section 162(h) eliminates requirements for a legislator to substantiate an overnight stay.
2. The per diem payment to legislators is \$50 per legislative day. (5-2-301(3), MCA) Federal law provides one type of accountable plan for when the employee's "lodging plus meals and incidental expenses" per diem reimbursement is less than the amount computed for the federal per diem rate. (IRC section 62(a)(1)(A), 26 CFR § 1.62-2) For Helena, the applicable reimbursement rate, set forth in 41 CFR Ch. 301 App. A, is:
  - a. \$67 per day through March 11, 1993, with \$41 for lodging and \$26 for meals and incidental expenses; and
  - b. \$71 per day after March 11, 1993, with \$45 for lodging and \$26 for meals and incidental expenses.

Reimbursements paid "under an accountable plan are excluded from the employee's gross income, are not reported as wages or other compensation on the employee's Form W-2, and are exempt from the withholding and payment of employment taxes (Federal Insurance Contributions Act (FICA), Federal Unemployment Tax Act (FUTA)...)". (26 CFR § 1.62-2(c)(4); see also 26 CFR § 31.3231(e)-3(a))

Therefore, all legislators living more than 50 miles from the capitol building do not have their per diem payments reported on their W-2 Form.

Under 26 USC § 162(h)(4), the special provisions allowing use of the federal per diem rate do not apply to legislators living within 50 miles

of the capitol building. Therefore, those legislators must follow the provisions of 26 USC § 274(d), must specifically substantiate all lodging and meal expenses, and cannot take advantage of unreimbursed expenses set forth below. Because 26 USC § 274(d) requires out-of-town travel before a person can claim lodging and meal expenses, a legislator who lives in Helena cannot claim any meal or travel expenses for session activities occurring within Helena.

#### Unreimbursed Expenses

All legislators who live more than 50 miles from the capitol building are considered to have substantiated expenses equal to \$67 a day through March 11, 1993, and \$71 a day thereafter, but they receive only \$50 in per diem payments. Under 26 CFR § 1.62-1T(e)(4), the legislator is allowed as a deduction a portion of this unreimbursed expense. The amount of the deduction is determined as follows:

1. The difference between the \$50 paid and the amount allowable by federal regulation must be allocated between lodging and meals in the same ratio as is set forth in the schedule in 41 CFR Ch. 301 App. A, after subtracting \$2 (representing incidental expenses) from the meals and incidental expenses amount.
2. All of the lodging expense and 80% of the meal expense (see 26 USC § 274(d)) are deductible, subject to the 2% floor on miscellaneous itemized deductions of 26 USC § 67.

A qualifying legislator may receive per diem allowable travel reimbursement for each legislative day, as defined in 26 USC § 167(h)(2). A legislative day is each day the legislature was in session, including any day on which the legislature was not in session for a period of 4 consecutive days or less or any day when it was not in session but the physical presence of the legislator was formally recorded at a meeting of a committee of the legislature. During 1993, the Legislature was in session for 131 days--67 in regular session through March 11 and 44 days in regular session and 20 in special session after March 11. Per diem is paid for committee members' attendance at committee meetings held during the interim. Days in Helena on legislative business for which no per diem was paid are totally unreimbursed travel expense days and may be deducted as provided above, except that the base amounts are the daily allowable total for lodging and for meals.

The unreimbursed lodging and meal amounts computed for days in regular and special session are:

Prior to March 12, 1993:

Meals: allowed after subtracting 20%, \$4.43 per day for a total of \$296.86.

Lodging: \$9.46 per day for a total of \$633.92.

After March 11, 1993:

Meals: allowed after subtracting 20%, \$5.28 per day for a total of \$338.36.

Lodging: \$12.39 per day for a total of \$793.04.

## LEGISLATIVE FINANCE COMMITTEE

Committee Meets in March...The Legislative Finance Committee met in Helena on March 11 to hear a number of reports, accept the 1993 Special Session Appropriations Report published in February, and consider a revised LFA interim work plan. The Committee established a subcommittee, composed of Senator Harding, Chair, Senator Weeding, Representative Grady, Representative Peck, and ex officio member Representative Cobb, to study the realignment of Appropriations Subcommittee hearings.

Committee Reviews Budget Amendments...The Committee reviewed 17 budget amendments for an additional \$1,636,352 and 1.60 FTE in fiscal 1994 and 8.23 FTE in fiscal 1995. The Committee voted that all of the requests met statutory criteria. To date for the 1995 biennium, the Committee has reviewed 101 budget amendments for an additional \$14,401,245 and 23.58 FTE. In compliance with Senate Bill No. 23 enacted by the 1993 Legislature, the Committee also reviewed four requests to spend private funds of \$1,544,835 and to authorize 2.00 FTE.

DFS to Incur Cost Overrun...The Committee heard a report that the Department of Family Services (DFS) will incur a \$5.2 million general fund cost overrun during the 1995 biennium. In fiscal 1994, either the Executive Branch will transfer excess Medicaid authority from the Department of Social and Rehabilitation Services to cover the shortfall or the DFS will process a supplemental appropriation request to transfer general fund money from its fiscal 1995 appropriations to 1994. The Executive Branch plans to request a supplemental appropriation from the 1995 Legislature to cover the balance of the cost overrun. The DFS staff attribute overexpenditures to higher than anticipated residential psychiatric treatment of children.

Subcommittee Meets to Review Dedicated Revenue Provisions and Statutory Appropriations...In its first meeting on March 10, the LFC Subcommittee on Senate Bill No. 378 heard:

1. a brief overview of the statutes related to the study;

2. a discussion regarding the accounting perspective of dedicated revenue (accounting requirements should not be ignored);
3. a discussion of "principles of revenue dedication" and other study guidelines;
4. a description of the 16 categories used in review of the dedicated revenue provisions; and
5. an explanation of accounting entities and amounts that compare to the National Conference of State Legislatures (NCSL) study entitled "Earmarking State Taxes", which showed Montana ranking very high in the use of earmarking.

The Subcommittee reviewed the dedicated revenue provisions in 14 of the 16 categories (about 170 accounting entities). In future meetings, the Subcommittee will focus on:

1. the development and refinement of the "principles of revenue dedication", guidelines, and criteria that represent legislative policy on the use of dedicated revenue provisions; and
2. the earmarking of general sources of revenue, such as taxes, fines and forfeitures, interest earnings, etc., with less emphasis on specific sources (such as license or permit fees) earmarked for a related purpose.

For various sources of revenue, the Subcommittee will consider the relationship of earmarking to the prioritization of spending. The Subcommittee will likely propose legislation for consideration in the next regular session to address concerns identified by this review process.

Committee Discusses Changes in Budget Process...The Committee heard and discussed a report on changes in the budget process resulting from the passage of House Bill No. 7. As the Office of Budget and Program Planning (OBPP) has agreed, the budget for the 1997 biennium will be driven by and compared to actual expenditures in the base budget year, fiscal 1994. The LFA goal is to focus on an analysis of the executive budget, which will discuss present law base adjustments, new executive proposals, and budget issues, rather than development of a separate proposal. This analysis is dependent upon a negotiated phased transfer of data from OBPP in advance of statutory deadlines.

Clayton Schenck Selected as Legislative Fiscal Analyst...The Committee voted to appoint Clayton Schenck as Legislative Fiscal Analyst, an interim position he has held since September 1993. Mr. Schenck, who is a CPA and holds a master of business administration degree in financial management, served as a senior analyst on the LFA staff for nearly eight years prior to his appointment.

## COMMITTEE ON CHILDREN AND FAMILIES

Committee Meets in Bozeman...The second meeting of the Joint Oversight Committee on Children and Families was held in Bozeman on Friday, March 18, and focused on community-based programs for children and families in the vicinity of Bozeman, Livingston, Lewistown, and Billings. The spotlight was on local child abuse prevention efforts, child care issues and networks, and mandated coordination of services for youth with cross-agency needs.

The Committee also spent time hearing about several teen parenting programs that are funded through the partnership of school districts, the federal Job Training Partnership Act, state welfare programs, designated state general fund amounts, Human Service Development Councils, and other resources.

Committee Hears Other Reports...The Committee also heard an update on the Department of Family Service's (DFS) "Partnership to Strengthen Families Project", an effort to work directly within the five DFS regions to build bridges among DFS local staff, community-based providers, and others on the provisions of family-based services.

Chairperson Barnhart shared information from a regional meeting that she attended in Denver, Colorado, as a guest of this federal region, on the federal Family Preservation Act. This meeting centered on programs to assist families who may be at risk of having their children placed in other settings.

Dr. Steve Duncan, Human Development Specialist, Montana State Extension Service in Bozeman, introduced information on the United Nations International Year of the Family, a project that he will head for this state.

Doug Sternberg, Legislative Council legal staff, summarized his report entitled "The History and Current Status of Montana Laws Related to Child Protective Services". Copies of this report are available from the Legislative Council.

Committee to Meet Again in May...The Committee made a tentative decision to meet on the afternoon of Wednesday, May 11, to hear a staff report and take public testimony on adult protective services, specifically the legal framework for state intervention in reported elder abuse. On the evening of May 11 and on Thursday, May 12, the Committee will join the Interagency Coordinating Council and others to design the coordinated system of prevention and family-based programs, as required by Senate Bill No. 34, a bill sponsored by last interim's Joint Oversight Committee on Children and Families.



## **JOB TRAINING PARTNERSHIP ACT REVIEW COMMITTEE**

Committee Reviews Governor's Plan...The Job Training Partnership Act Review Committee met Friday, March 11, to review the draft of the Governor's coordination and special services plan that the State Job Training Coordinating Council (JTCC) is currently developing. The plan outlines goals and standards for performance of JTPA programs and provides criteria for coordination of the JTPA with other state and local employment, education, and training programs in Montana.

The Committee did not make specific recommendations for additions to the Governor's plan but intends to provide the JTCC with a list of questions that were raised at the Committee's two meetings. A similar compilation of Committee questions will be shared with the two state service delivery areas regarding their state plans.

Committee to Meet Again...The Committee made tentative plans to meet April 18 or 19 so that members can also attend a forum on the federal Reemployment Act of 1994. The forum is scheduled to take place April 18 at the Park Plaza in Helena. Please contact Andrea Merrill at the Legislative Council for further information.

## **SUBCOMMITTEE ON SCHOOL REVENUE**

Subcommittee Holds Second Meeting...The second meeting of the Joint Interim Subcommittee on School Revenue was held Thursday, March 24 in Helena. The main objective of the meeting was to review the study plan and to chart the course of study and staff projects for the remainder of the interim.

Subcommittee Hears From OPI and LFA...The Subcommittee heard a report from the Office of Public Instruction on the nonlevy revenue available to school districts as indicated in the 1993 School Fiscal Year Trustee Report (expenditure report) and heard a report from staff of the Legislative Fiscal Analyst's Office (LFA) on growth in school district expenditures in all budget areas in relationship to the inflation rate. Copies of the report are available from the LFA or the Legislative Council.

After testimony and discussion, the Subcommittee moved to limit the scope of the study to a staff analysis of district-by-district availability of nonlevy revenue and access to taxation of centrally assessed property, such as utilities, railroads, and mining. The Subcommittee will be

particularly interested in the relationship between these revenue sources and equalization of district budgets. While the Subcommittee may need to make initial exploration of the legal and financial considerations of diverting some or all nonlevy revenue and centrally assessed property wealth toward strictly statewide purposes, the group concurred with school district representatives and other speakers that it may be wise to allow the current school funding and associated taxation scheme to work without major adjustment for at least one year.

The Subcommittee made tentative plans to meet Friday, June 3.

## LEGISLATIVE COUNCIL

### LEGAL DIVISION

#### Ballot Measures Received:

- Campaign Finance Reform
- Restriction of Corporate Campaign Contributions
- Medical Use as Affirmative Defense to Marijuana Use
- Revision of Recall Laws

Note: Pursuant to 13-27-202(2), MCA, copies of correspondence are available through the Secretary of State.

Treason Litigation Dismissed...On March 10, 1994, District Court Judge Jeffrey Sherlock dismissed the complaint, Cause No. BDV-93-1946, filed by Mr. Jack Gehring against all members of the 1993 Legislature, all members of the Montana Supreme Court, the Governor, and the Attorney General. The complaint alleged that the defendants had violated several provisions of the Montana and United States Constitutions.

The complaint alleged that the Legislature had violated Article V, section 5, of the Montana Constitution by fixing its own compensation. The complaint also alleged that the plaintiff's right to petition government for redress of grievances had been denied in violation of Article II, section 6, of the Montana Constitution and the First Amendment of the United States Constitution. The complaint asked all officials and employees of the State of Montana to cease and desist from accepting Federal Reserve Bank notes as payment and to accept only gold and silver coins as currency. The complaint alleged that the acts complained

of constituted treason within the meaning of Article II, section 30, of the Montana Constitution.

The complaint was dismissed for failure to state a claim upon which relief could be granted. Judge Sherlock determined that:

1. the 1991 Legislature had fixed the compensation of the 1993 Legislature;
2. there is no guarantee that a petition for redress will meet with success; and
3. the legality of paper money has been consistently upheld by the courts.

The litigation was successfully handled for all named defendants by Assistant Attorney General Deanne Sandholm.

## **STATE HOUSING TASK FORCE**

Task Force Elects Officers...The State Housing Task Force held its second meeting on Monday, March 21. Kevin Hager was elected chairman and Paul Bankhead was elected vice chairman.

Study Topics Selected...The Task Force engaged in a round table discussion on issues and concerns regarding affordable housing in Montana. As each Task Force member stated a particular issue or concern, it was recorded by staff. After each member had spoken, issues were grouped into three general categories: regulation, delivery system, and finance.

In the afternoon, the Task Force broke into three subgroups to examine and prioritize the statements in each category and then reported back to the Task Force as a whole. As a result of the sub groups' work, the following topics were selected for further study by the Task Force:

- the establishment of a state housing trust fund;
- the development of a state housing policy;
- the feasibility of "one-stop permitting" for housing developments; and
- the use of the Treasure State Endowment to address infrastructure costs in developing affordable housing.

To Meet in May...The Housing Task Force will meet again on May 2. At that time, staff will report on a housing trust fund, a state housing policy, and the Treasure State Endowment.

## REVENUE OVERSIGHT COMMITTEE

Special Improvement District Financing Subcommittee Meets...The Subcommittee created to examine the financing of special improvement districts held its first meeting March 24. Lee Heiman, staff attorney, presented a summary of a federal bankruptcy court order confirming the Chapter 11 bankruptcy reorganization of Red Lodge Country Club Estates Joint Venture. In addition to resolving the claims against the joint venture, the bankruptcy court affirmed a Montana District Court decision that Carbon County is not obligated to make loans from the revolving fund to the rural special improvement districts created on behalf of the joint venture. The District Court decision was appealed to the Montana Supreme Court, and oral arguments were presented in January. The state's high court has asked that parties to the case submit briefs detailing the effects of the bankruptcy court order on the appeal.

The Subcommittee held a round table discussion with interested parties (bond counsel, bond underwriters, local and state government officials, and representatives of both sides of the Carbon County case) to focus on the relevant issues regarding the financing of special improvement districts. There was general agreement that special improvement districts and the use of the revolving fund are appropriate mechanisms for financing capital improvements. There was also agreement that existing law can be improved, regardless of any Montana Supreme Court decision. Two of the important policy decisions that the Subcommittee hopes to resolve concern the allocation of risk on the issuance of special improvement district bonds and whether different rules should apply to the creation of special districts in developed areas as opposed to undeveloped areas.

Tax Expenditure Study...The full Revenue Oversight Committee met March 25. Staff presented a follow-up report to a report presented to the Committee in September 1993. That report summarized the Department of Revenue's estimates of Montana tax expenditures for the last three bienniums. The report also showed that the individual income tax accounted for well over 90% of all tax expenditures in Montana. Most individual income tax expenditures are "passive" in nature because Montana law conforms with federal income tax law. The follow-up report highlighted some of the issues related to federal tax expenditure reporting and summarized some of the technical and political issues related to state level tax expenditures under the individual income tax.

Department of Revenue Settles With Federal Retirees...The Department of Revenue has reached an agreement with federal retirees seeking a refund of taxes paid on federal retirement income for tax years 1983 through 1987 (re. Davis v. Michigan and Harper v. Virginia). Federal retirees who filed timely claims for refunds for those years will receive

a full refund on taxes paid plus interest of about 3% a year. The settlement amount is approximately \$10.5 million (about \$6 million less than would be required if the retirees prevailed in litigation), including attorney fees of \$300,000. The settlement must be approved by the District Court. If the District Court approves the agreement, refund checks should be issued starting in August of this year. The Department has already issued refunds to federal retirees for the 1988 tax year.

Income Tax Analysis...The Department of Revenue presented an analysis comparing 1991 income tax data with 1992 data. The analysis showed robust growth in wage and salary income, net business income, rents, royalties, partnerships, and net farm income. Overall, Montana adjusted gross income grew by 8.5%, while total tax collections grew by 13.3%. Part of the increase in tax collections between 1991 and 1992 is because of the surtax in effect in 1992.

Agricultural Land Property Tax Issues...Senator Tom Beck asked the Department of Revenue about some very large increases in the assessed valuation of irrigated farm land (up to 250% in some cases). The 1993 Legislature revised the way in which agricultural land is valued (SB 168). It was anticipated that irrigated land values would increase substantially, but not by the amounts cited by Senator Beck. The Department said that it would look into the matter and report back to the Committee at its next meeting.

The 1993 Legislature also revised the eligibility requirements to qualify as agricultural land (HB 643). Previously, land in excess of 20 acres automatically qualified as agricultural land as long as it was not devoted to a residential, commercial, or industrial use. Now land must be in excess of 160 acres to qualify. The owner of land that is between 20 and 160 acres must demonstrate that the land is used for agricultural purposes. If the land is not used for an agricultural purpose, it is taxed at seven times the rate applied to grazing land. The Committee discussed some of the anomalies of the new law. For example, a landowner may have a lower tax bill under the higher rate for grazing land than would be the case if the land were taxed as a bona fide agricultural operation. Committee members agreed this issue may have to be revisited in the next legislative session.

Other Department of Revenue Reports...The Department presented a progress report on the implementation of House Bill No. 50 (enacted during the November 1993 Special Session) that revised the property assessment and valuation functions of the Department.

The Department also informed the Committee that federal employees have challenged the Workers' Compensation "old fund" liability tax on the grounds of intergovernmental tax immunity. House Bill No. 504 imposed a tax of 0.2% of an employee's wages to help eliminate the old fund unfunded liability.

Committee and Subcommittee to Meet in May...The Revenue Oversight Committee will meet Friday, May 27, at 9 a.m. in Room 104 of the Capitol. The SID study subcommittee will meet Thursday, May 26, at 1 p.m. in Room 104. The meeting will be a work session to develop tentative recommendations for revising SID and RSID laws as they relate in particular to the use of the revolving fund.

## JUDICIAL UNIFICATION AND FINANCE COMMISSION

Commission Adopts Guiding Principles...The Judicial Unification and Finance Commission (JUFC) at its March 24 and 25 meeting developed and adopted a draft of 11 guiding principles, reached consensus on several areas of judicial reform, and identified issues requiring further discussion.

Among the guiding principles adopted were:

- the state should be ultimately responsible for funding the state courts;
- there should be an equal and efficient delivery of quality judicial services statewide;
- there should be a more equitable sharing of the tax burden for funding the courts; and
- current funding sources and personnel should be used to the greatest extent possible so that no new "bureaucracy" is created.

The JUFC reached consensus in a number of areas, including the following:

- The seven-member Supreme Court, which by current statute will be reduced to a five-member court in 1997, should be retained.
- Some type of regional administration using existing personnel and resources will help to coordinate, standardize, and improve the cost-effectiveness and quality of District Court administration.
- Clerks of District Court should be elected on a nonpartisan basis.

Among the issues to be discussed further at the JUFC's next meeting are state funding for the District Courts (and possibly the Justice of the Peace Courts) and consolidation of the Municipal and City Courts into the Justice of the Peace Courts to create one court of limited jurisdiction.

Commission to Meet Again in May...The JUFC's next meeting will be a two-day meeting and has been scheduled in Room 437 of the Capitol on Wednesday, May 11, beginning at 10 a.m. The JUFC will reconvene from 8 a.m. to 4 p.m. on Thursday, May 12.

For further information, please contact Sheri Heffelfinger at the Montana Legislative Council, 444-3064.

## **COMMITTEE ON POSTSECONDARY EDUCATION POLICY AND BUDGET**

Committee Hears Report on UM Negotiations...The Committee on Postsecondary Education Policy and Budget met in Helena on March 4.

The Committee received an update on negotiations between the University Teachers' Union of the University of Montana and the Governor's Office from Committee member Pat Haffey. As an integral part of the faculty contract negotiations, the two parties are discussing issues such as faculty and student productivity and efficiency and tuition levels. Ms. Haffey and other participants indicated that it is the first time that faculty, students, and others have all come together to look at these issues and how they relate to one another. Committee discussion addressed the negotiations in light of Montana University System (MUS) restructuring and how the work done applies to other campuses.

Committee Discusses Two-Year Education in Montana...The Committee heard reports by Representative Mike Kadas, Senator Greg Jergeson, and Dr. Walt Nolte of Flathead Valley Community College (FVCC) on two-year education in Montana. Representative Kadas gave a report showing that Montana awards far fewer two-year (associate) degrees as a percentage of total degrees than any other state in the region, with the exception of South Dakota. He suggested that Montana consider expanding two-year education opportunities to address the anticipated increase in demand for higher education over the next decade. Representative Kadas also pointed out that the per student cost of education at the vocational-technical centers significantly exceeds the cost at the community colleges. The Committee requested that staff and the Office of the Commissioner of Higher Education (CHE) report back to the Committee on why this is the case.

Senator Jergeson presented a report that advocated using current community teaching resources to expand higher education opportunities to residents of those communities without an MUS unit. MUS professors would serve as "mentors" to persons in local communities who are

qualified to teach various college level courses so that they may teach those courses in their communities. The purpose of the proposal is to expand access to higher education in communities without an MUS unit by creating an MUS "feeder school" system around the state. Students who are either placebound or unsure of their higher education goals could take certain courses without relocating.

Dr. Nolte discussed the "tech prep" program underway between FVCC and several secondary schools. Tech prep is a program whereby students take clusters of courses in various topics, the purpose of which is to expand student opportunities and better prepare them for entering either higher education or the workforce.

Committee Discusses University Funding...The Committee also held a discussion of MUS funding for the 1997 biennium. The Committee agreed to further explore CHE's proposed mechanism to fund the MUS. CHE is proposing that the state provide students with "vouchers" to attend a unit of the MUS. The number of students, the per student cost of education, and the state's share of the total educational cost per student would all be factors in determining the total state appropriation and total current unrestricted funding available to the MUS under this enrollment-based formula approach. Staff and various Committee members will work with CHE and the Office of Budget and Program Planning to make recommendations to the full Committee.

## ENVIRONMENTAL QUALITY COUNCIL

EQC Meets in March...The Environmental Quality Council (EQC) met Friday, March 4. The EQC continued its look into agency enforcement of the Water Quality Act, including receiving a report from the Legislative Auditor's Office on the ongoing Department of Health and Environmental Sciences (DHES) Water Quality Bureau performance audit. The EQC will readdress the enforcement issue at its next meeting.

SJR 29 Nondegradation Study...The EQC continued its look at specific water quality nondegradation issues as requested under Senate Joint Resolution No. 29. The Joint EQC/WPC SJR 29 Nondegradation Subcommittee met March 3 and reported back to the full EQC that it had decided to continue its analysis of the potential use of mitigation in agency nondegradation decisions at the Subcommittee's May 5 meeting.

Additionally, the Subcommittee reported on the proposed agency mixing zone rules and suggested that the full EQC recommend that the DHES extend the comment period for the mixing zone rules and that the



DHES schedule informational meetings with affected and interested citizens. The EQC endorsed both recommendations.

The next Joint EQC/WPC SJR 29 Subcommittee meeting is scheduled for Wednesday, April 27, in Room C-209 of the Cogswell Building. The Subcommittee will hear a presentation from agency personnel regarding the latest version of the proposed nondegradation rules. The Subcommittee will report its findings and any recommendations from both the April 27 and May 5 meetings to the full EQC at the next EQC meeting, Friday, May 6.

Other Issues...Other agenda items from the March meeting included a report by the Collaborative Working Group on transportation energy policy development; a multimedia update on Superfund site cleanup projects; a presentation on the newly formed Montana Consensus Council; an update on the Senate Joint Resolution No. 34 Hazardous Waste Study; and a staff-facilitated EQC discussion on MEPA and agency rulemaking.

Transportation Energy Policy Development...The second meeting of the Transportation Energy Collaborative is scheduled for 9 a.m. on Tuesday, April 5, in the DNRC Director's conference room. The Collaborative is a cooperative effort between the EQC and Departments of Transportation and Natural Resources and Conservation to address issues related to transportation planning and energy consumption. The focus of the meeting will be a discussion of the scope of the Collaborative's efforts and the development of a work plan. For further information, please call Deborah Schmidt at 444-3742.

SJR 34 Hazardous Waste Study...The next meeting of the EQC's Hazardous Waste Management Working Group is scheduled for 9 a.m., Wednesday, April 6, in the DNRC Director's conference room. The working group will be discussing the regulation of conditionally exempt small quantity generators of hazardous waste, the adequacy of the hazardous waste regulatory framework, and siting issues. For further information, please call Paul Sihler or Todd Everts at 444-3742.

Next EQC Meeting...The EQC will meet Friday, May 6, in the Capitol. Tentative agenda items will include a discussion of agency mitigation authority under MEPA, a report by the Lead Abatement Council, and a tour of the Capitol as part of the building renovation project.

For more information on these issues, please contact the EQC staff at 444-3742.

## WATER POLICY COMMITTEE

Committee to Meet in Big Hole River Basin...The next Water Policy Committee meeting is scheduled for Thursday and Friday, April 7 and 8, at the locations identified below.

Instream Flow...As part of its Instream Flow Study, the Committee will tour the Big Hole River Basin to allow Committee members to better understand the specific hydrology of the basin and the concerns of local water users. The tour will begin at 1 p.m., Thursday, April 7, at the Community Building in Wisdom, Montana. The Committee will continue its look at instream flow issues, with a panel discussion beginning at 6 p.m., Thursday, at the Grange Hall in Divide, Montana.

Late Claims...The Committee will hold a public meeting at 9 a.m., Friday, April 8, in the courtroom of the Beaverhead County Courthouse in Dillon to discuss the Late Claims Study. The Committee has scheduled a panel discussion involving federal, state, and private attorneys to discuss concerns regarding the federal McCarran Amendment and the impact of late claims on the state's water adjudication process. Following the panel discussion, the Committee will solicit public comment on the 1993 Senate Bill No. 310 legislation and on how the law might be improved. The Committee will present its findings and any recommendations to the Legislature in 1995.

Most testimony before the Committee has been from "late claimants", and the Committee has expressed concern that the "timely filers", in other words, those water users who did file before the 1982 deadline, might not be fully aware of the potential impacts of the late claim issue to their water rights. The Committee is planning a meeting in eastern Montana later in the interim to ensure maximum opportunity for public involvement in this issue.

Stream Flow Symposium...The Water Policy Committee is co-sponsoring an educational symposium regarding stream flow issues Thursday and Friday, April 21 and 22, at MSU in Bozeman. The purpose of the symposium, co-sponsored by the Public Land Law Review of the University of Montana, the Montana Watercourse, and the Water Resources Center, is to provide a forum for learning and broad-based discussion of law, science, values, strategies, and local initiatives related to streamflow management in Montana. To fulfill this purpose, the speakers will include legal and scientific experts and involved citizens.

For more information on these issues, please contact the EQC staff at 444-3742.

## THE BACK PAGE

Although 75 percent of U.S. high school students do not go on to college, the American education system has failed to provide these students with the skills necessary to achieve success in the workplace. In order to address this deficiency, Congress passed the School-to-Work Opportunities Act to assist states in developing school-to-work programs for high school students. This month's "The Back Page" describes how an ad hoc Montana planning team sought and received a grant to develop a school-to-work transition program.

### INTERBRANCH TEAMWORK RESULTS IN \$200,000 FEDERAL GRANT TO IMPROVE SCHOOL-TO-WORK TRANSITIONS FOR MONTANA STUDENTS

by Andrea Merrill, Council Staff

It's a "good news" story whenever Montana receives a \$200,000 federal grant that requires no state matching funds and that allows the leeway to create a "made-in-Montana" product. In February, the U.S. Departments of Labor and Education announced that a Montana interbranch "ad hoc" planning team had secured a grant to develop a school-to-work transition system for the state's high school population and potential workforce. In awarding the grants, Secretary of Labor Robert B. Reich said that the grants will enable all states to develop plans to help young people bridge the gap between what they learn in school and the skills they need to get a good first job. Secretary of Education Richard W. Riley adds that, "We need to get on with the business of reinventing our high schools if we are to equip our students with the knowledge and skills necessary for jobs in their communities and in the increasingly complex global economy."

The grant is part of The School-to-Work Opportunities Act passed by Congress in November 1993 and is to be jointly administered by the Departments of Labor and Education. The ultimate goal of the legislation is to build a nationwide framework that combines classroom instruction with work-based training. School-to-work programs would offer high school students the opportunity to participate in high-quality, performance-based programs resulting in a high school diploma, an industry-recognized skill certificate, and, if appropriate to specific career goals, a degree or diploma certifying successful completion of at least one year of postsecondary education. The legislation expects the public schools to offer students the following components: career exploration and counseling; instruction in general workplace competencies; coordination of workplace mentoring; and a program of study based on high academic and skill

standards that meet the expectations of the Goals 2000: Educate America Act, recently passed by Congress.

The genesis of this federal initiative stems from recent reports and indicators that the U.S. has the worst record in the industrial world for preparing young people with crucial workplace skills. Germany has a strong commitment to youth apprenticeship and work preparedness. While it is not mandatory to participate in school-to-work programs, a German business or industry that elects not to participate must pay a tax to cover the cost of government provision of such opportunities. The European model usually involves local management by a commission consisting of educational representatives, employers, and labor groups.

The American high school experience does not embrace such a clear mission regarding work preparedness and has been accused of seriously failing not only the 75 percent of students who are not college-bound but all students, most of whom will change jobs and skills many times in their worklife. Nationally, half of all high school graduates do not find a specific career path until the age of 30. A 1991 survey of employers identified the biggest deficits of young, first-time employees to be good work habits and a dedication to building on-the-job skills.

The interbranch planning efforts for this grant materialized when persons from higher education, executive agencies, and the Legislative Branch compared notes after attending various national education and labor conferences in September 1993 that emphasized the federal alliance of overall workforce investment and systemic school reforms. As reported in the October Interim, Senator Waterman, Senator Brown, Representative McCarthy, Representative Sonny Hanson, Pat Haffey from the Governor's Office, the Superintendent of the Bozeman Public Schools, Paula Butterfield, and myself were guests of the National Conference of State Legislatures for a 4-day seminar on systemic school reform at the Harvard Graduate School of Education. One of the policy areas selected by the Montana delegation for immediate attention was "promoting student preparation for the world of work in partnership with the state's business community". When some of the Harvard "delegation" teamed up after the trip with similarly inspired staff persons from higher education, vocational education, and state job training programs, the grant writing process was born. Governor Racicot, Superintendent of Public Instruction Nancy Keenan, and Commissioner of Higher Education Jeff Baker signed a partnership agreement to pursue the grant and to dedicate staff to the planning project. The Montana Chamber of Commerce, the Montana Competitiveness Council, and Leadership in Education for Economic Development were all invited to the planning table and have committed to the success of this venture. Dr. Jane Karas, Assistant Commissioner of Higher Education for Technical Education, led the grant planning project through to success and will be a principal contact person.

The promise of this development grant will be of interest to legislators and other policymakers who have expressed concern with whether or not our state and national education systems are directing enough energy toward preparing students for the world of work and for contributing to the nation's economic and social well-being. Legislators will want to follow the progress of this initiative to learn what Montana's public schools, state agencies, business sector, and local communities are already doing to provide real-world work skills and experiences for high school students. For instance, 30,000 Montana high school students are involved in some type of vocational education program or school-sponsored work experience.

The Montana grant commits to the following: hiring a project director; surveying existing school-to-work programs; conducting community meetings to identify stakeholder and public interest; and engaging in dialogue on the barriers that must be overcome to create school-to-work programs. Barriers to success of a statewide school-to-work system may include: the fact that the federal legislation currently lacks employer and school district incentives to cooperate, such as tax breaks, training and mentorship inducements, or student wage provisions; the lack of successful models for programs in a largely rural state with a predominance of small businesses and already marginal youth employment opportunities; school systems that may find it difficult to provide staff and funding that can be dedicated beyond current means; identification of need in a state that already gets high marks for student achievement and an educated workforce (Montana has the most college graduates per capita in the nation); and the expectation of "turfism" and noncooperation in the quest for scarce resources. On the positive side of the ledger are the many excellent school-to-work programs currently in place and the enthusiasm for this project already demonstrated by dozens of talented Montanans and state policymakers.

For further information on this project, contact Andrea Merrill at the Montana Legislative Council.



## INTERIM CALENDAR

### APRIL

April 5, EQC's Transportation Energy Collaborative, DNRC Director's Conference Room, 9:00 a.m.

April 6, EQC's Hazardous Waste Management Working Group, DNRC Director's Conference Room, 9:00 a.m.

April 7, Water Policy Committee, Wisdom Community Building, 1:00 p.m.; Divide Grange Hall, 6:00 p.m.

April 8, Water Policy Committee, Beaverhead County Courthouse, 9:00 a.m.

April 8, Subcommittee on Insurance Issues, Room 104, 9:00 a.m.

April 15, Subcommittee on Veterans' Needs, Room 104, 9:00 a.m.

April 21, Legislative Audit Committee, Room 104, 8:00 a.m.

April 27, EQC/WPC Water Quality Nondegradation Subcommittee, Cogswell Building, Room C-209, 9:00 a.m.

### MAY

May 2, State Housing Task Force, Room 437, 10:00 a.m.

May 6, Environmental Quality Council, Room 104

May 6, Committee on Indian Affairs, Room 437, 10:00 a.m.

May 11, Judicial Unification and Finance Commission, Room 437, 10:00 a.m.

May 12, Judicial Unification and Finance Commission, Room 437, 8:00 a.m.

May 26, Revenue Oversight Committee SID Subcommittee, Room 104,  
1:00 p.m.

May 27, Revenue Oversight Committee, Room 104, 9:00 a.m.

May 31, Memorial Day, holiday

**JUNE**

June 9, Legislative Finance Committee's Subcommittee on Review of  
Dedicated Revenue Provisions and Statutory Appropriations

June 10, Legislative Finance Committee

June 10, Subcommittee on Workers' Compensation Alternatives, Room  
104, 1:00 a.m.





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